

### **Examiner's Amendment**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Sandra Weiss on April 30, 2008.

The application has been amended as follows:

Cancel claim 31.

### **Reasons for Allowance**

2. The following is an examiner's statement of reasons for allowance: The pending claims have been amended to a scope that is enabled by the specification, thus rendering the previous 112 1<sup>st</sup> paragraph rejection moot. The terms "solvate" and "hydrate" have also been canceled rendering this ground of rejection moot. The applicant is correct in asserting that based on the amended claims of the instant case, the 7,176,215 patent is no longer an appropriate basis for an obviousness type double patenting rejection. This rejection is withdrawn. The examiner notes that the rejections over the later filed copending applications are valid double patenting

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rejections. The examiner withdraws these rejections since this is the only possible ground of rejection, as per MPEP 1490 V:

#### **D. Two or More Copending Applications**

If two (or more) pending applications are filed, in each of which a rejection of one claimed invention over the other on the ground of provisional obviousness-type double patenting (ODP) is proper, the ODP rejection will be made in each application. **If the ODP rejection is the only rejection remaining in the earlier filed of the two pending applications, (but the later-filed application is rejectable on other grounds), the examiner should then withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.**

The restriction between compounds and methods was withdrawn and the examiner rejoined the method claim 31 to the compounds, and called the applicant's representative to advise that save claim 31 the application was otherwise allowable.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

4. Claims 1-3, 9, 11, 13-16, 19, 21, 23 and 25-30 are allowed. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David K. O'Dell whose telephone number is (571)272-9071. The examiner can normally be reached on Mon-Fri 7:30 A.M.-5:00 P.M EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary examiner, Rita Desai can be reached on (571)272-0684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D.K.O.

/Rita J. Desai/  
Primary Examiner, Art Unit 1625